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DEPARTMENT FOR AF/E

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SUBJECT: THE REFORM PROCESS: ATTORNEY GENERAL UNDER PRESSURE

Classified By: Ambassador Michael E. Ranneberger for Reasons 1.4 (b) and (d)

¶1. (C) Summary. The visa ban we issued against Attorney General Amos Wako, who is a linchpin in the culture of impunity, has contributed to a groundswell of pressure for his removal. We are hearing that his days may be numbered. His departure will be a significant symbolic step in pushing for change, but will be only the first potential step toward institutional reform of the Attorney General's office. End summary.

¶2. (C) Attorney General Amos Wako has been a linchpin of the culture of impunity during his 19 years in office. He has a near perfect record of no significant successful prosecutions of senior officials for corruption. In order to advance the rule of law, reforming the Attorney General's office is essential, along with police and judicial reform. Wako had long been impervious to criticism, and immune to it since he serves to protect the political class and knows all the secrets of corruption and abuses of office. The visa ban we have issued against Wako has seriously jeopardized his standing and is contributing to widespread demands for his removal.

¶3. (C) Public opinion and editorial comment have been strongly positive about the visa ban. We have worked behind the scenes to shift the focus from U.S. action to credible, domestic voices who are calling for Wako's removal. Over the weekend, the Law Society of Kenya worked quietly with editors from the largest national newspaper to run a three-page focus on Wako's failures in the Sunday edition. The Law Society of Kenya and the International Commission of Jurists subsequently published a statement calling for Wako's removal and outlining a consultative process for choosing his replacement. (Note that currently the President has the sole constitutional authority to appoint the Attorney General.) Numerous parliamentarians have called for the AG's removal, and when Parliament reconvenes on November 10, reform-minded members are expected to introduce a censure motion. Wako discredited himself further with a vehement extended public denunciation of the visa ban, which made him look ill-tempered and worried.

¶4. (C) The public and private groundswell of pressure for his removal appears to be having an impact on President Kibaki and his advisers. Notably, no senior members of government have spoken out in the AG's defence, and we are told that President Kibaki informed Wako that he is on his own.⁸ Several senior officials have hinted to us that Wako's days are numbered, and Wako during his public comments talked about possibly retiring in the coming months. While the President cannot technically fire him (he must either resign or be found guilty of abuse of office by a special tribunal), one call from State House would trigger a resignation letter. Through corrupt practices over almost two decades, Wako has reportedly squirreled away millions of dollars for his retirement.

¶5. (C) Removal of Wako, as with the removal of Commissioner of Police Ali, will be just the first step toward institutional reform. The Solicitor General in Wako's office, Wanjuki Muchemi, is equally corrupt and is the next

in line to take Wako,s position. Realizing that, we, the Law Society, the International Committee of Jurists, and reformist Members of Parliament are already working to pre-empt such a step. If, as with the police, a credible Attorney General is appointed to replace Wako, we should provide concrete support to make the Attorney General,s office more effective and transparent.

RANNEBERGER